

**United States District Court  
Southern District of New York**

<b>UNITED STATES OF AMERICA</b>	)	<b>DECLARATION</b>
	)	
<b>-v-</b>	)	<b>07 Cr 1095</b>
	)	<b>(SAS)</b>
<b>ALEXANDER CONCEPCION</b>	)	

I, HUGH M. MUNDY, hereby declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that:

1. I am an attorney with the Federal Defenders of New York, Inc. and have been appointed by the Court to represent Alexander Concepcion ("Concepcion") in this action. I make this declaration in support of a motion pursuant to Rules 12 and 41 of the Federal Rules of Criminal Procedure to suppress wiretap evidence and statements obtained from Concepcion by law enforcement authorities. All statements made herein are made based upon information and belief.

2. By Indictment No. 07 Cr 1095 (SAS), Concepcion stands accused of one count of conspiracy to distribute over fifty (50) grams of cocaine-base. A copy of the Indictment is attached hereto as Exhibit A.

3. I make this declaration in support of Concepcion's motion to suppress wiretap evidence obtained by the Government on or about August 8, 2007.

4. Discovery materials provided by the Government include applications for two separate wiretaps. Both are attached hereto as Exhibits B & F. The Government has indicated to me its intent

to introduce as evidence as part of its direct case conversations in which Concepcion participated that were recorded in August 2007 pursuant to one of these wiretaps.

5. Discovery materials provided by the Government also include an affidavit in support of both wiretap applications. The affidavit accompanying the second wiretap application is attached hereto as Exhibit G.

6. Discovery materials provided by the Government also include a series of three periodic reports as to each wiretap application, submitted by the Government to provide the Court an update on the progress of the wiretaps. The reports are attached hereto as Exhibits C - E and Exhibits H - J.

5. The wiretap application that is the subject of this motion is dated July 20, 2007, and is known as the second wiretap application. It is attached hereto as Exhibit F.

6. The second wiretap application was to monitor Concepcion's cellular telephone, located in the Southern District of New York, due to Concepcion's suspected involvement in narcotics trafficking.

7. The Government has provided me with transcripts of conversations recorded as a result of the wiretap in which Concepcion participated. Those calls took place from June through August 2007.

8. I have reviewed the second wiretap application and its supporting documentation, and have concluded that it does not adequately establish that alternative investigative techniques

had been tried and failed or appeared unlikely to succeed if tried.

9. The contents of the conversations obtained pursuant to the second wiretap application in which Concepcion was a participant must be suppressed.

**WHEREFORE**, it is respectfully requested that this Court issue an order suppressing the illegally intercepted telephone conversations obtained through the second wiretap application in which Concepcion participated.

Dated: New York, NY  
March 28, 2008

LEONARD F. JOY, ESQ.  
Federal Defenders of New York, Inc.  
Attorney for Defendant

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/s/ Hugh M. Mundy  
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